

CWP No.28692 of 2017

[1]

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.28692 of 2017

Date of decision: February 15, 2018

Amit Munjal

...Petitioner

Versus

The State of Haryana and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Jagdish Manchanda, Advocate,
for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

Rakesh Kumar Jain, J.

The petitioner has prayed for the issuance of a writ in the nature of *mandamus* to correct his date of birth as "11.07.1980" instead of "04.07.1980", his name as "Amit Munjal" instead of "Amit Kumar", his father's name as "Gulshan Munjal" instead of "Gulshan Kumar" and his mother's name as "Sangeeta Munjal" instead of "Sangeeta Rani" in his birth certificate.

In brief, it is averred that the petitioner was born on 11.07.1980 at village Ajrawar, District Kurukshetra. The factum of his birth was registered with the Health Department on 21.07.1980. However, in his birth certificate, his date of birth was found to have been mentioned as "04.07.1980" instead of "11.07.1980", his name as "Amit Kumar" instead of "Amit Munjal", his father's name as "Gulshan Kumar" instead of "Gulshan Munjal" and his mother's name as "Sangeeta Rani" instead of "Sangeeta Munjal". It is further

averred that the petitioner had passed his matriculation from Government High School, Ismailabad, District Kurukshetra and in his matriculation certificate, his name, date of birth and father's name have been mentioned as Amit Munjal, 11.07.1980 and Gulshan Munjal respectively. He passed his B.Com. in the year 2000 from the DAV College, Ambala City, affiliated to the Kurukshetra University, Kurukshetra. In his Bachelor and Master degrees issued by the Kurukshetra University, his name has been mentioned as "Amit Munjal S/o Gulshan Munjal". Thereafter, he obtained the passport from the Regional Passport Office, Chandigarh with the name of Amit Munjal S/o Gulshan Munjal, mother's name as Sangeeta Munjal and wife's name as Rashmi Munjal. The said passport is valid upto 29.11.2022.

It is submitted that since petitioner's wife Rashmi Munjal has allegedly shifted to New Zealand for doing her Ph.D. at Auckland University of Technology (AUT), New Zealand, therefore, the petitioner also shifted to New Zealand with his daughter Ms. Reet Munjal and got work VISA as a Financial Adviser full time employee in Global Financial Services, Auckland, New Zealand. Now the petitioner is residing in New Zealand since February, 2016 and applied for Permanent Resident (PR) of New Zealand and as per the rules in New Zealand, the birth certificate was required by the petitioner for getting PR. He obtained the birth certificate on 04.12.2015 and found the aforesaid errors in it. Thereafter, for the purpose of seeking corrections in the birth certificate, the petitioner made a representation to respondent no.2 but since nothing was done, therefore, he has approached this Court for seeking a direction, as stated here-in-above.

After notice, the respondents have filed their reply in which it is

averred that the entry in the birth certificate cannot be changed by the respondents except it had occurred due to clerical error. It is alleged that the entry was made in the birth certificate as per the information supplied by the parents of the petitioner and, thus, there was no clerical mistake on the part of the respondents. It is further averred that the petitioner may take recourse to the filing of suit for declaration instead of filing a writ of *mandamus*. The respondents have relied upon the instructions dated 01.12.2008 issued by the Chief Registrar (Birth-Death) & Director General Health Services, Haryana to all the District Registrar (Birth-death) & Civil Surgeon in the State of Haryana in regard to the amendment in details of original record of birth-Death Registration, in which it is mentioned that it can be done only with regard to the clerical errors.

Learned counsel for the petitioner has then relied upon a decision of this Court rendered in the case of **Shweta Sharma vs. State of Haryana and others**, 2011(3) RCR (Civil) 442 to contend that except for the birth certificate, the name of the petitioner therein is the same in all the educational records and, thus, the correction cannot be refused under the garb of clerical errors.

I have heard learned counsel for the parties and examined the available record with their able assistance.

There is no doubt that in the birth certificate, date of birth, name and parents' name of the petitioner have been mentioned as "04.07.1980", "Amit Kumar", "Gulshan Kumar" and "Sangeeta Rani" respectively but at the same time, it is also not denied that in all the educational certificates and even in the passport issued to the petitioner, the aforesaid entries are as follows:-

Name : Amit Munjal
Date of birth : 11.07.1980
Father's name : Gulshan Munjal
Mother's name : Sangeeta Munjal

Now all these educational certificates and the passport of the petitioner are at variance with the birth certificate, though it is not denied by the respondents that the birth certificate or the educational certificates or the passport does not belong to the petitioner. Similarly, it is mentioned by the petitioner that due to the mistakes committed in the birth certificate, his educational certificates would be of no use on which the entire career of the petitioner has been built and those would be a source for his livelihood.

The Birth and Death Department of the State of Haryana has though directed that as per Birth-Death Registration Act, 1969 and Haryana Birth-Death Rules, 2002, only clerical errors can be corrected, but in **Shweta Sharma's case (supra)**, this Court has held that there is no prohibition for change of name etc. either under the Act or the Rules framed thereunder as Section 15 read with Rule 11 permit the respondents to alter the entry(ies).

Consequently, while relying upon the decision rendered by this Court in **Shweta Sharma's case (supra)**, the present petition is hereby allowed and respondent no.2 is directed to issue fresh birth certificate to the petitioner, as early as possible and preferably within a period of 15 days from the date of presentation of this order, after making necessary corrections therein, as prayed by the petitioner in the present petition.

February 15, 2018
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned : Yes/No
Whether reportable : Yes/No